

UNITED STATES DISTRICT COURT

**ORIGINAL**

NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable YVONNE GONZALEZ ROGERS, Judge

EPIC GAMES, INC.,	)	<b>Status Conference</b>
	)	
Plaintiff,	)	
	)	
vs.	)	NO. C 20-05640 YGR
	)	
APPLE, INC.,	)	Pages 1 - 8
	)	
Defendant.	)	Oakland, California
_____	)	Tuesday, April 13, 2021

**REPORTER'S TRANSCRIPT OF ZOOM WEBINAR PROCEEDINGS**

**APPEARANCES VIA ZOOM:**

For Plaintiff: Cravath, Swaine & Moore LLP  
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New York, New York 10019  
BY: GARY A. BORNSTEIN,  
KATHERINE B. FORREST, ATTORNEYS AT LAW

For Defendant: Gibson, Dunn & Crutcher LLP  
333 South Grand Avenue  
Los Angeles, California 90071  
BY: JAGANNATHAN P. SRINIVASAN,  
ATTORNEY AT LAW

(Appearances continued next page)

Reported By: Raynee H. Mercado, CSR No. 8258

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**RAYNEE H. MERCADO, CSR, RMR, CRR, FCRR, CCRR (510) 565-7228**

A P P E A R A N C E S (CONT'D.)

For Defendant: Gibson Dunn Crutcher LLP  
2001 Ross Avenue, Suite 1100  
Dallas, Texas 75201  
BY: VERONICA S. MOYE, ATTORNEY AT LAW

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1 Tuesday, April 13, 2021

2:59 p.m.

2 P R O C E E D I N G S

3 (Zoom Webinar)

4 **THE CLERK:** Calling civil action 20-5640, Epic Games,  
5 Inc. versus Apple, Inc.

6 And, counsel, please state your appearances.

7 **MS. FORREST:** Good afternoon, Your Honor. It's  
8 Katherine Forrest for Epic.

9 **MR. BORNSTEIN:** And good afternoon, Your Honor. Gary  
10 Bornstein for Epic as well.

11 **MS. MOYE:** Good afternoon, Your Honor. Veronica Moya  
12 for Apple.

13 **MR. SRINIVASAN:** And good afternoon, Your Honor. Jay  
14 Srinivasan for Apple as well.

15 **THE COURT:** Okay. Good afternoon.

16 I sent out or had chambers send out that quick note to you  
17 because I became a little concerned in light of the admin  
18 motion that I received in the other Apple case with -- with  
19 the -- the MDL -- the class action, not MDL.

20 But it occurred to me that people might be misapprehending  
21 the nature of the access during the trial, so I thought I  
22 should reach out pretty quickly and make sure that there was  
23 no miscommunication about what the Administrative Office of  
24 the Courts allows and doesn't allow.

25 Does everyone understand that only the people in the

1 courtroom will see what is happening, and everything else is  
2 only by audio?

3 Does everybody understand that? Or did you think it was  
4 different?

5 **MS. FORREST:** We understand that, Your Honor. And we  
6 are not seeking anything in addition to that, to the audio  
7 stream. That's sufficient for us.

8 **MS. MOYE:** And, Your Honor, in light of your note  
9 today, we of course understand it. I think we had hoped and  
10 contemplated that perhaps we could have video feed to our war  
11 room in -- in light of the limited number of people that would  
12 be allowed in the courtroom so that, for example, our experts  
13 could watch testimony in the way they could if they were going  
14 to sit in the courtroom during a live proceeding.

15 So that was the only thing we had potentially contemplated  
16 if it was acceptable, Your Honor.

17 **THE COURT:** It's not allowed. I have already told  
18 you what is allowed, and that is the -- the only exception is  
19 this Cameras in the Courtroom program. I sent you -- I don't  
20 know -- weeks -- I mean, I raised this last fall, I think, or  
21 last winter and then reminded you about it recently in terms  
22 of that kind of access. You haven't taken me up on the offer.

23 And -- and the other piece of that is that it, you know,  
24 didn't even have to be for the whole trial. You could have  
25 agreed on which pieces would be streamed. And, you know, but

1 you chose not to do that, so it's --

2 It's not an issue of me. It's an issue of what the  
3 Administrative Office of the Courts allows, and that is not  
4 allowed.

5 **MS. MOYE:** Understood, Your Honor, and we appreciate  
6 the clarity.

7 It was a proposal I think the parties contemplated making  
8 in the short future to Your Honor, but we will not because we  
9 understand that it is not permitted.

10 **THE COURT:** Yeah. I mean, look, I -- I think access  
11 to public proceedings is really important. That's why I  
12 participate in the other program. No one ever takes me up on  
13 it. It's why I record -- you know, why -- you know, not all  
14 my colleagues will go on Zoom. I mean, we've had lots of  
15 people watching all this pretrial stuff. And I think it's  
16 great. And I wouldn't mind doing it except for the fact that  
17 I can't. So --

18 (Simultaneous colloquy.)

19 **THE COURT:** -- it is what it is.

20 **MS. MOYE:** We understand, Your Honor.

21 **THE COURT:** Okay. The other thing since I have you  
22 on the platform, is there -- there's this -- there's this  
23 issue with Judge Laporte.

24 Look, you all have filed hundreds of pages of documents  
25 that I am trying to get through prior to this trial so that we

1 can be as efficient as possible. You can always stipulate to  
2 do things.

3 So here are your options. I am not appointing a special  
4 master because that then implies that you've got appellate  
5 rights. I'm not giving you appellate rights on these  
6 discovery and deposition designations.

7 Your options are the following: You can either agree to  
8 stipulate to Judge Laporte resolving those issues for you and  
9 being the final arbiter and put that in writing and I will  
10 stamp it. Or on Monday morning, I will sit in the courtroom  
11 and I will read your designations, and I will rule from the  
12 bench. And all of that time is going to be allocated against  
13 you. I am not doing that before.

14 (Simultaneous colloquy.)

15 **THE COURT:** Does everybody understand?

16 **MS. MOYE:** We understand.

17 **THE COURT:** Ms. Forrest, what is your concern? Why  
18 do I have to -- why can't you stipulate?

19 **MS. FORREST:** Your Honor, it's -- there may be some  
20 ability to stipulate to what we have, which is I think a -- a  
21 modest concern. And it's not -- we're certainly not trying to  
22 burden you with resolving these or reviewing these or having  
23 additional paper come your way.

24 It's simply if there were, for instance, a situation where  
25 Judge Laporte misapprehended the law and excluded, for

1 instance, some important testimony and did that by way of  
2 resolving for either side a designation objection against one  
3 side or the other, there might be an issue that the parties  
4 would want to preserve for any potential appeal.

5 That can be done, if Your Honor is okay with it, by way of  
6 just simply saying that Judge Laporte's rulings can be taken  
7 as Your Honor's rulings or something along those lines in  
8 terms of fully appealable, as they would be as if they had  
9 occurred in your court.

10 But it's simply -- it's simply for that. We don't even  
11 necessarily anticipate anything like that. It's just prudent  
12 because we don't know what her rulings will be to forgo that  
13 possibility.

14 **THE COURT:** You can stipulate, it seems to me. The  
15 proposed form of order that you gave me, I believe, involves  
16 all sorts of appellate rights to me, which I'm not interested  
17 in giving you.

18 **MS. FORREST:** Understood, Your Honor.

19 And I think that the -- that the better way of proceeding  
20 would simply to be to allow the parties to stipulate right  
21 here right now that Judge Laporte can make final decisions,  
22 and any appellate rights will be preserved to the extent they  
23 even exist.

24 And we're not waiving any appellate rights by having that  
25 occur through her -- her resolution of these issues.

1           If that's acceptable to Apple, it's acceptable certainly  
2           to us, and that resolves it once and for all.

3           **MS. MOYE:** As we've said before, from Apple's point  
4           of view, we were fine with stipulating to Judge Laporte being  
5           the final arbiter. We saw no need for appointment of a  
6           special master.

7           **THE COURT:** I think you should do that in writing so  
8           that the stipulation is clear to both sides and there's no  
9           disagreement, withdraw the pending motion, and then we'll move  
10          on from there.

11          **MS. MOYE:** Understood, Your Honor.

12          **THE COURT:** Okay?

13          **MS. FORREST:** Yep. Makes sense.

14          **THE COURT:** All right. Thank you.

15          **MS. FORREST:** All right.

16          **MS. MOYE:** Thank you.

17          **MR. SRINIVASAN:** Thank you, Your Honor.

18          **MS. FORREST:** Thank you, Your Honor.

19          **THE COURT:** Okay. We're adjourned.

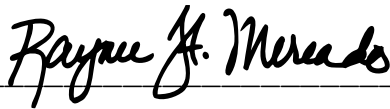
20               (Proceedings were concluded at 3:07 P.M.)

21                       --o0o--



**CERTIFICATE OF REPORTER**

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter. I further certify that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken, and further that I am not financially nor otherwise interested in the outcome of the action.



Raynee H. Mercado, CSR, RMR, CRR, FCRR, CCRR

Friday, June 2, 2023